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In the Supreme Court of the United States

OCTOBER TERM, 1928

No. 104

THE UNITED STATES OF AMERICA, PETITIONER

v.

FLORENCE E. WILLIAMS

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the District Court (R. 13) is not reported. The opinion of the Circuit Court of Appeals for the Third Circuit (R. 18) is reported in 23 F. (2d) 792.

JURISDICTION

The judgement of the Circuit Court of Appeals was entered on January 10, 1928. (R. 17.) Petition for certiorari was filed April 7, 1928, and was granted on May 14, 1928. (R. 20.) The jurisdiction of the Court rests on the Act of February 13, 1925.

QUESTION PRESENTED

The question presented is whether a District Court of the United States, sitting as a Court of Claims, has jurisdiction to entertain a suit against the United States on an adjusted service certificate issued pursuant to the World War Adjusted Compensation Act, brought by the beneficiary to recover the amount of money provided for in the certificate.

The answer depends on whether the claim is one for a pension within the meaning of paragraph 20 of Section 24 of the Judicial Code, which excludes claims for pensions from the jurisdiction of the court, and whether, even though not a suit for a pension, jurisdiction is withheld by Section 310 of the World War Adjusted Compensation Act, added by the Act of July 3, 1926, which section makes the decisions of the Director of the Veterans' Bureau final on all matters within his jurisdiction under the Act.

STATUTES INVOLVED

Paragraph 20 of Section 24 of the Judicial Code (U. S. C. Title 28, Sec. 41, par. 20) confers on the District Courts original jurisdiction—

> Concurrent with the Court of Claims, of all claims not exceeding ten thousand dollars founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, or for

> damages, liquidated or unliquidated, in cases not sounding in tort, in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable * * * *Provided, however,* That nothing in this paragraph shall be construed as giving to either the district courts or the Court of Claims jurisdiction * * * to hear and determine claims for pensions * * *.

Section 4(b) of the Act of July 3, 1926 (c. 751, 44 Stat. 826, 828; U. S. C. App. Title 38, Sec. 620, p. 2083), which amended the World War Adjusted Compensation Act by adding the following section, provides:

> "SEC. 310. The decisions of the Secretary of War, the Secretary of the Navy, and the Director, on all matters within their respective jurisdictions under the provisions of this Act (except the duties vested in them by Title VII) shall be final and conclusive."

Section 201 of the World War Adjusted Compensation Act (c. 157, 43 Stat. 121, 122; U. S. C. Title 38, Sec. 601) provides:

> The amount of adjusted service credit shall be computed by allowing the following sums for each day of active service, in excess of sixty days, in the military or naval forces of the United States after April 5, 1917, and before July 1, 1919, as shown by the service or other record of the veteran: $1.25 for each day of oversea service, and $1 for each day

> of home service; but the amount of the credit of the veteran who performed no oversea service shall not exceed $500, and the amount of the credit of a veteran who performed any oversea service shall not exceed $625.

And Section 501 of the same Act (U. S. C. Title 38, Sec. 641) provides:

> The Director, upon certification from the Secretary of War or the Secretary of the Navy, as provided in section 303, is hereby directed to issue without cost to the veteran designated therein a nonparticipating adjusted service certificate (hereinafter in this title referred to as a "certificate") of a face value equal to the amount in dollars of 20-year endowment insurance that the amount of his adjusted service credit increased by 25 per centum would purchase, at his age on his birthday nearest the date of the certificate, if applied as a net single premium, calculated in accordance with accepted actuarial principles and based upon the American Experience Table of Mortality and interest at 4 per centum per annum, compounded annually. The certificate shall be dated, and all rights conferred under the provisions of this title shall take effect as of the 1st day of the month in which the application is filed, but in no case before January 1, 1925. The veteran shall name the beneficiary of the certificate and may from time to time, with the approval of the Director, change such beneficiary. The amount of the face value of the certificate (except as provided in subdi-

visions (c), (d), (e), and (f) of section 502) shall be payable out of the fund created by section 505 (1) to the veteran twenty years after the date of the certificate, or (2) upon the death of the veteran prior to the expiration of such twenty-year period, to the beneficiary named; except that if such beneficiary dies before the veteran and no new beneficiary is named, or if the beneficiary in the first instance has not yet been named, the amount of the face value of the certificate shall be paid to the estate of the veteran. If the veteran dies after making application under section 302, but before January 1, 1925, then the amount of the face value of the certificate shall be paid in the same manner as if his death had occurred after January 1, 1925.

The World War Adjusted Compensation Act (c. 157, 43 Stat. 121; U. S. C. Title 38, Sec. 591 et seq.) and the Act of July 3, 1926 (c. 751, 44 Stat. 826; U. S. C. App. Title 38, Sec. 612 et seq.), amendatory thereof, are set forth in the Appendix.

STATEMENT

The respondent brought this action against the United States in the United States District Court for the Western District of Pennsylvania alleging that an adjusted service certificate had been issued under the World War Adjusted Compensation Act to William C. Williams, a veteran; that she was his wife, and the beneficiary designated in the certificate; that he was deceased and she was entitled to the proceeds of the certificate, and had filed proof

of claim and complied with all the requirements of the Director and had demanded payment, which had been refused. (R. 1–3.)

The original petition raised issues as to whether the Director of the Bureau should have issued a certificate for a greater amount, but by amendment (R. 5) respondent based her suit on the certificate as issued.

The United States demurred to the petition on the ground that the court was without jurisdiction to entertain such a suit against the United States. (R. 4.)

The District Court sustained the demurrer and dismissed the petition. (R. 15.) On writ of error the Circuit Court of Appeals held that the District Court had jurisdiction and reversed its judgment. (R. 17–19.)

SPECIFICATION OF ERRORS

The Circuit Court of Appeals erred (1) in holding that this case does not present a claim for a pension; (2) in failing to hold that jurisdiction to entertain the suit was withheld by Section 310 of the World War Adjusted Compensation Act, which makes the Director's decisions final; and (3) in holding that the District Court had jurisdiction.

SUMMARY OF ARGUMENT

I. The three principal provisions for veterans of the World War are: compensation for injury or disease contracted in service, war-risk insurance, and the so-called bonus or adjusted compensation here involved.

For war-risk insurance the veteran pays a premium and the Acts of Congress expressly grant jurisdiction to the courts to entertain suits on the policies.

Compensation for injury or disease is a gratuity, and this Court has held that the law commits to the Director of the Veterans' Bureau final decision on all matters involved.

The adjusted compensation to be received is also a gratuity or bonus, and it has all the qualities of a pension, and, like compensation for injury, the duty of administering the Act has been committed to the Director of the Bureau.

A claim under an adjusted service certificate may fairly be said to be a claim for a pension and withheld from the jurisdiction of the courts by Section 24, Judicial Code, but it is plain that Section 22 of the Adjusted Compensation Act, which makes the decisions of the Director final on all matters within his jurisdiction under the provisions of the Act, leaves the courts without jurisdiction to review his decisions.

The Director not only has matters to decide prior to the issue of the certificate, but the Act provides that after the certificate is issued, claims shall still be presented to and determined and passed upon by the Director. He is required, in the first instance, at least, to pass on all matters then existing which a court would pass on if it entertained jurisdiction. Since the law confides the decision of

these matters to the Director, his decisions are matters within his jurisdiction under the Act, and by Section 310 are made final.

There is a significant contrast between the Acts relating to War Risk Insurance, by which the courts are expressly authorized to entertain suits on war risk insurance in all controversies between the Bureau and the veteran or his beneficiaries, and the Adjusted Compensation Act, which makes no grant of jurisdiction to the courts and expressly makes the Director's decisions final.

II. If any doubt exists as to the purpose and effect of Section 310, so as to allow resort to the Congressional committee reports and hearings, the result is conclusive.

The original Adjusted Compensation Act was not explicit on this point and gave rise to a question whether the courts had jurisdiction. The bill to amend the World War Adjusted Compensation Act, as introduced and as considered by the House Committee, contained a new section (305), which granted jurisdiction to the courts to entertain claims on adjusted service certificates. The matter was discussed at committee hearings. The Veterans Bureau proposed that no suit should be allowed, and proposed Section 310 for that purpose. The Committee struck out the proposed Section 305 and inserted Section 310, making the Director's decisions final, and reported to Congress that the purpose was not to allow suits under the Act.

ARGUMENT

I

A CLAIM ON AN ADJUSTED SERVICE CERTIFICATE, IF NOT A CLAIM FOR A PENSION AND EXCLUDED FROM THE JURISDICTION OF THE COURTS OF CLAIMS OF THE UNITED STATES BY SECTION 24 OF THE JUDICIAL CODE, IS ONE JURISDICTION OF WHICH WAS WITHHELD FROM THE COURTS BY COMMITTING THE DECISION OF ALL MATTERS TO THE DIRECTOR AND MAKING HIS DECISION FINAL AS TO ALL MATTERS WITHIN HIS JURISDICTION

Three classes of benefits have been provided for veterans of the World War, war-risk insurance, compensation for disability contracted in the service, and adjusted-service compensation. War-risk insurance is paid for by the service men, and Section 405 of the Act of October 6, 1917 (c. 104, 40 Stat. 398, 410), providing for insurance stated:

> That in the event of disagreement as to a claim under the contract of insurance between the bureau and any beneficiary or beneficiaries thereunder, an action on the claim may be brought against the United States in the district court of the United States in and for the district in which such beneficiaries or any one of them resides. * * *

This provision has been continued in amendatory statutes. (U. S. C., Title 38, Sec. 445.)

Compensation for physical disability is not the result of a contract or premium paid by the veteran, and the Act providing for it did not expressly grant jurisdiction to the courts to entertain claims under the Act. Whether the courts of the United States

had jurisdiction to entertain suits against the United States to recover disability compensation was considered in *Silberschein* v. *United States*, 266 U. S. 221. It was suggested there that a claim for compensation was a claim for a pension and withheld from the court's jurisdiction by Section 24 of the Judicial Code, but the Court passed that question without deciding it and held the courts had no jurisdiction because the Act committed to the Director of the Veterans' Bureau the duty and authority to administer its provisions and decide all matters arising under it, and the Court held, in the absence of any express provision to that effect, that his decisions were final and not reviewable, at least unless wholly unsupported by evidence or arbitrary.

The adjusted service compensation is in this respect like disability compensation. It is a bonus or gratuity for military service.

There is support for the contention that this adjusted service compensation is in its nature a pension and within the letter and spirit of that clause of Section 24 of the Judicial Code which withholds from the courts jurisdiction of claims for pensions.

Price v. *Society for Savings*, 64 Conn. 362, 366.

People v. *Westchester County National Bank of Peekskill*, 231 N. Y. 465.

State v. *Dixon*, 66 Mont. 76.

This question may be passed over as was done in the case of *Silberschein* v. *United States*, 266 U. S. 221.

There are more obvious reasons for denying jurisdiction of the courts over these claims.

There is no provision in the Act expressly conferring jurisdiction on the courts to entertain suits under it. The Act commits to the Director of the Veterans' Bureau the duty and authority of deciding questions arising under the Act, and, in addition, there is an express provision, which was lacking in the disability compensation case, considered in *Silberschein* v. *United States, supra,* which expressly makes the decisions of the Director final.

The World War Adjusted Compensation Act provides, in Section 201, for what is known as an adjusted service credit, computed at the rate of $1.25 per diem for overseas service and $1 per diem for home service. Sections 301 and 302 provided that if the adjusted service credit was $50 or less it should be paid in cash to the veteran as adjusted service pay, but if the credit was more than $50 an adjusted service certificate should be issued to him on his application, made before January 1, 1928.

The adjusted service certificate is provided for in Section 501. It resembles a 20-year endowment insurance policy, in that the amount payable under the certificate was the amount of 20-year endowment insurance which the adjusted service credit, increased by 25 per centum, would purchase for a man of the veteran's age, if applied as a net single

premium in accordance with actuarial principles and the American Experience Tables of Mortality and interest at 4 per centum, compounded annually. The amount of the certificate was made payable to the veteran if he survived to the end of the 20-year period, or to his designated beneficiary if and when he died before the maturity of the certificate.

Title VI of the Act provided that if the veteran did not apply for the certificate his dependents might apply after his death for payment of the adjusted service credit, which was made payable in ten quarterly installments if the total was more than $50.

Preliminary to the issue of the certificate, many facts as to the veteran's service were required to be passed on by the Secretary of the Navy, or the Secretary of War, or the Director of the Veterans' Bureau.

Section 310 of the Adjusted Compensation Act, added by the Act of July 3, 1926, provides that—

> The decisions of the Secretary of War, the Secretary of the Navy, and the Director on all matters within their respective jurisdictions under the provisions of this Act (except the duties vested in them by Title VII) shall be final and conclusive.

It is clear that all decisions by the Director on all matters passed on by him preliminary to the issue of the certificates are final and not reviewable in the courts.

It remains only to consider whether after the certificate is issued claims under it are matters within the jurisdiction of the Director on which he is required to make decisions. A review of the statute discloses that claims on adjusted service certificates are required to be presented to and passed on by the Director.

Section 502 of the Act authorized banks to make loans on these certificates and provided that in case of default in a loan the bank may present its claim to the Director, whether before the maturity of the certificate or afterwards. If before the maturity of the certificate payment is in the discretion of the Director. If after the maturity of the certificate proof of death of the veteran is required to be submitted to the Director, who is required to pay the bank's claim, and to pay the balance of the face value of the certificate, if any, to the beneficiaries designated. Section 507 provides that the fund appropriated by Congress, known as the Adjusted Service Certificate Fund—

> shall be available for payment, by the Director, of adjusted service certificates upon their maturity or the prior death of the veteran, and for payments under Section 502 to banks on account of notes of veterans.

In the same way, under Title VI, where no adjusted service certificate has been applied for or issued, and after the veteran's death his dependents apply for the payment of the adjusted service

credit, the claim is passed on and allowed or disallowed by the Director.

Questions which the Director is required to pass on, when claims under adjusted service certificates are presented to him for payment, may be whether the veteran has in fact died; whether the claimant is the same person designated as beneficiary by the veteran; whether a change of beneficiary attempted by the veteran after the certificate was issued as provided for in the Act has been effective so as to divest the original beneficiary and substitute a new one; whether a beneficiary who has caused the veteran's death is entitled to profit by the act and recover on the certificate; and other similar questions. Cases arise also where the age of the veteran may have been misstated in the application for the certificate, and when claim is made under the certificate the discrepancy is discovered, and the Director is then required to recalculate the amount of the certificate. Since the Director is required to consider and pay claims on certificates, he must necessarily decide, in the first instance, at least, all questions as to the right of the claimant to receive payment. His decisions on these matters are on matters within his jurisdiction under the provisions of the Act, and under the express terms of Section 310 are final and conclusive.

The right to sue the United States does not exist unless clearly conferred. *Schillinger* v. *United States*, 155 U. S. 163.

The absence of jurisdiction in the courts is much clearer in this case than it was in the *Silberschein* case, *supra*. The Circuit Court of Appeals in its decision below does not mention Section 310, and deals only with the question whether the claim is a claim for a pension under Section 24, Judicial Code. This may be accounted for by the fact that the claimant's brief below did not mention Section 310, and both the brief for the claimant and for the United States in the court below stated that the question was whether the claim was one for a pension, and while the Government's brief casually mentioned Section 310, it did not set forth or discuss it.

The only other case dealing with the question whether suit may be brought on an adjusted service certificate is *Singles* v. *United States*, 61 Ct. Cls. 433, in which an action on such a certificate was brought by a beneficiary before the amendment of July 3, 1926, which contains Section 310, was passed, making decisions of the Director final. The court did not pass on the question whether the claim was one for a pension under Section 24 of the Judicial Code, holding that the claim would have to be dismissed in any event because the requirements of the Act that the application be filed with the Secretary of War had not been complied with.

Section 310 provides that the Director's decision shall be final on all matters within his jurisdiction

under the provisions of the Act, except the duties vested in him by Title VII. Title VII of the original World War Adjusted Compensation Act related only to operating expenditures of the Bureau, estimates of expenditures for carrying out the provisions of the Act, and matters of that kind. It related in no way to claims on certificates. An anomalous situation has resulted from the fact that in the amendatory Act of July 3, 1926, after adding Section 310, making the decisions of the Secretary of War, the Secretary of the Navy, and the Director conclusive on all matters, except the duties vested in them by Title VII [which was appropriate enough as Title VII originally stood], the Act went on to add to Title VII, Section 705, authorizing the Director when it appears by evidence clear and satisfactory to him that an adjusted service certificate has been lost or destroyed, to issue a duplicate under such regulations and such restrictions and security as he may require. It is obvious that if the decision of the Director on any question should be final, a decision on an application for a duplicate certificate should be, and that when Congress added this provision to Title VII it must have overlooked the fact that decisions made in the discharge of the Director's duties under Title VII were excepted from the finality provision in Section 310. This situation has no material bearing on the question in this case.

II

IF THERE BE SUFFICIENT DOUBT AS TO THE PURPOSE OF SECTION 310 TO WARRANT RESORT TO THE PROCEEDINGS OF CONGRESS, THE MATERIAL THERE FOUND CONCLUSIVELY SHOWS THAT IT WAS THE INTENTION OF CONGRESS TO WITHHOLD FROM THE COURTS JURISDICTION OF CLAIMS ON ADJUSTED SERVICE CERTIFICATES

The original act of 1924 was not explicit. It was like the statute considered in *Silberschein* v. *United States, supra,* with no express provision for judicial consideration of claims, and with finality of decisions of the Director a matter of inference. Under the original Act the question arose whether the courts had jurisdiction of suits on certificates. It had been raised in *Singles* v. *United States, supra,* in the Court of Claims.

In 1926, after this question had arisen, the bill originally introduced by Mr. Mills to amend the World War Adjusted Compensation Act had a proposed Section 705, to the effect that—

> In the event of disagreement as to claim on an adjusted service credit or adjusted service certificate under this act between the bureau and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the Supreme Court of the District of Columbia or in the District Court of the United States in and for the district in which such person or any one of them resides, and jurisdiction is hereby conferred upon such courts to hear and determine all such controversies.

This is like the provision relating to war-risk insurance. The bill in this form was the subject of hearings before the subcommittee of the Committee on Ways and Means in the House. (H. R. 7082, 69th Cong., First Session; see Hearings before the Committee on Ways and Means, 69th Cong., First Session, on Bills proposing amendments to the World War Adjusted Compensation Act, issued by the Government Printing Office January 21, 1926.) The subcommittee considered this question, and the Veterans' Bureau, through Mr. Roberts, Assistant General Counsel, recommended that suits should not be permitted, and that all the decisions of the Director, including those on claims under adjusted service certificates, should be made final. The committee struck out the proposed Section 705, giving jurisdiction to the courts, and inserted Section 310, which was prepared by the Veterans' Bureau, to carry out the suggestion that the Director's decisions be final and not reviewable in the courts, and the Committee reported the Bill to the House, with the statement that the section was intended to prohibit suits against the Government under the Act.

The record of the subcommittee's hearings contains the following:

> Mr. Roberts. The next is section 11 of the bill on page 12, that a new section be added to Title VII to be known as section 705. This new section is in identical language with section 19 of the World War veteran's act, which authorizes suits on insurance con-

tracts issued under that act by the Government to the soldiers, with the exception that in place of the words "insurance contract" there is the word "certificate."

Mr. MILLS. Do you approve of this?

Mr. ROBERTS. When in case of disagreement, in view of the fact that approximately 4,000,000 certificates have been or will be issued, we do not feel that they should be thrown into the courts, or a large percentage of them, in the event of disagreement as to a claim under them. If such were the case, it would mean a vast amount of litigation for the Veterans' Bureau. We already have many cases wherein there is controversy as to the persons to take, one having been named as beneficiary; and the question of undue influence and fraud arises. The suggestion was made by the adjusted compensation division of the bureau that the bureau be given the right to go in and interplead parties wherever there was a question as to the correct person to take under this law. In others words, the Government would be allowed to file a bill of interpleader and let the courts make a final determination.

Mr. HAWLEY. Pay the money into the court and let the court determine the party to whom it should go.

Mr. ROBERTS. Let the court determine the party to whom the money should go. Another alternative is to make the decision of the director final. We are in this position: Suits have been brought in the Court of

Claims and one suit is now pending in the District of Columbia Supreme Court. No court has yet determined whether, independent of the passage of this amendment, there may not lie a suit in the Court of Claims on these adjusted service certificates; and we feel that Congress should either express definitely that the Director's decision is final, the same as it is in compensation cases, and there is no appeal to the courts, or Congress should provide a specific method of going into the court.

Mr. MILLS. Let us get this straight. That was the original provision in the bill, and it was taken out at the request of the bureau, but this section inserts it again.

Mr. ROGERS. We felt this way about that, Mr. Mills. That amendment was submitted to the legal division at the time that it was presented. The legal division's opinion on that is that on a bill of interpleader there is no appeal from the person who files the bill. In other words, theoretically at least, a person pays the money into court and says to the court: "There is the money; we do not know who is entitled to it;" and it is up to the court to decide who shall be entitled to it; the Government, no matter which way the court ruled, and no matter how many cases had previously been passed upon, would be in the position of not having the right to appeal.

Further, the question of the director going into court in any of these cases where he saw fit would immediately bring up the

question in the event of disagreement among beneficiaries of taking the director into court; and our position was that we did not see how the director could refuse to file a bill of interpleader in the event of a disagreement. As a consequence of that we felt that it would be better to give the parties the right to sue if the legislation was to be enacted at all.

Mr. Mace. Then you do not suggest a bill of interpleader as a substitute for this?

Mr. Brown. No. The director's official position is that he would prefer to have his decision final on these questions.

Mr. Mace. But if that can not be done, then you prefer the provision which allows you to interplead?

Mr. Brown. Then we prefer this to the bill of interpleader.

Mr. Mace. Personally, I am inclined to believe that you would be better off if we made the decision of the director final.

Mr. Brown. Otherwise it would be opening up a lot of litigation.

Mr. Mace. I do not think that you want to get into the law courts.

Mr. Hartman. I think the director's decision should be final.

Mr. Lewis. As long as we have the present director in office nobody need entertain any fear of his abusing the power.

Mr. Mace. We could make the director's decision final, and if we should get a director in the future who is not friendly we can amend the law then.

Mr. Lewis. I think, gentlemen, the Legion has the same attitude as this committee, that they want to provide for all these matters in the simplest and most direct way possible.

Mr. Hutchinson. I think the simplest and surest way would be to make the director's decision final.

Mr. Mills. Will it be constitutional?

Mr. Rogers. Yes, sir. The present World War veterans' act provides for compensation for reduced earning capacity. This is a compensation act in another form, as I see it. The director's decision under that act is final, and the Supreme Court in the case of *Silverwhite* v. *United States* has held that the director's determination is final and not subject to review by the courts, and that the act is constitutional.

Mr. Mills. It has been suggested that we make the decision of the director final and eliminate this court procedure. It seems to me that is very desirable.

Mr. Hutchinson. That is agreeable to the entire membership of the Committee here.

Mr. Rogers. And you would ignore the provisions for the bill of interpleader?

Mr. Mills. That was the original suggestion. They objected to it and we took it out because they did object.

Mr. Hutchinson. Is there anything further?

Mr. Rogers. I would just like to add that the attitude of the director is that he would rather assume the responsibility of final determination himself than to have these cases go to court.

Mr. HAWLEY. All right, Mr. Roberts. What is the last one?

* * * * *

Mr. ROBERTS. Would you also wish to have us prepare an amendment that would make the director's determinations final?

Mr. MILLS. I think it would be helpful; it would certainly help Bureau.

Mr. HAWLEY. I wish you would do that.

Mr. STARK. Yes.

Mr. HAWLEY. Gentlemen, when can you have these ready?

Mr. ROBERTS. We could have them ready by Monday, if that is early enough.

Mr. HAWLEY. Very well. That concludes the hearing.

Mr. ROBERTS. Mr. Chairman, General Hines, the director of the bureau, whom I represent before this committee, desires me to state to the committee, in order that there may be no misunderstanding as to his position with reference to review by the Comptroller General, that it is not the desire of the bureau, nor does the bureau recommend, that the determination of the director of all questions be made final and not subject to review by the General Accounting Office.

Our proposal to make the director's decision final on all matters is so phrased as to not exclude a review by the General Accounting Office in proper cases and the amendment was only for the purpose of prohibiting extensive litigation with reference to adjusted-service certificates.

The report of the Committee (Report 554, 69th Cong., First Session) on H. R. 10277 contains the following (p. 4):

FINALITY OF DECISION

Section 4 has for its purpose the conferring on the Secretary of War, the Secretary of the Navy, and the Director of the Veterans' Bureau of final and conclusive authority in all matters arising under their respective jurisdictions. To this end the Comptroller General of the United States is directed to allow credit in the accounts of the disbursing officers of the United States Veterans' Bureau for all payments authorized by the director heretofore or hereafter made for moneys appropriated for carrying out the provisions of the World War adjusted compensation act, as amended, except those covering administrative expense such as salaries, purchases, and travel allowances as covered in section 701 of the World War adjusted compensation act.

The effect of this amendment, while it will not necessitate the removal of the present auditing system maintained by the Comptroller General in the bureau, will be to prohibit the Comptroller General or his agents from disallowing cases upon disagreement with the director in matters of law or fact involved in the interpretation or application of the act, but will not interfere with the right of the Comptroller General to disallow expenditures by disbursing officers not

in conformity with instructions of the director. It will also prohibit suits against the Government under such act except as such suits are now allowable in connection with compensation payable under the World War Veterans act, 1924, as amended.

Section 305 of the present law confers upon the Secretary of War and the Secretary of the Navy authority to determine the individuals who are veterans and as to each veteran the amount of his adjusted service credit, and provides that their findings shall not be subject to review by the General Accounting Office. This section is amended by section 4 of the bill so as to leave out the statement as to the conclusiveness of their findings in this respect, such statement being unnecessary in view of the general language of section 310 as proposed by section 4 of the bill.

Similarly, the Report of the Senate Committee on Finance, accompanying H. R. 10277 (Report No. 1188, 69th Congress, First Session), contained the following (p. 4):

FINALITY OF DECISION

Section 4 has for its purpose the conferring on the Secretary of War, the Secretary of the Navy, and the Director of the Veterans' Bureau of final and conclusive authority in all matters arising under their respective jurisdictions. This is for the purpose of prohibiting suits in connection with the adjusted compensation act because of dif-

ferences of opinion between the Secretary of War, the Secretary of the Navy or the Director of the Veterans' Bureau, and applicants.

The statement in the Report of the House Committee to the effect that the section "will also prohibit suits against the Government under such act except as such suits are now allowable in connection with compensation payable under the World War Veterans' Act, 1924, as amended," is inaccurate in the use of the word "compensation," as no suits were maintainable for compensation, but only for war risk insurance, which was provided for in the World War Veterans' Act, 1924, as amended.

The report of the Senate Committee states that the section is for the purpose of prohibiting suits in connection with the Adjusted Compensation Act, because of differences of opinion between the Secretary of War, the Secretary of the Navy, or the Director of the Veterans' Bureau and applicants. The word "applicant" is used in the statute to describe a veteran applying for a certificate, or a dependent applying for payment of the adjusted service credit, and its use is not strictly accurate as applied to a claimant under an adjusted service certificate, but it is clear the Committee had in mind the prevention of any suit under the Act, and Section 310, which makes the Director's decisions final on all matters within his jurisdiction under the Act is not limited to controversies between the Bureau and "applicants."

CONCLUSION

Even without the addition to the Act made by Section 310 the decision in *Silberschein* v. *United States, supra,* would have led to the conclusion that the Adjusted Compensation Act was intended to commit matters arising on claims under adjusted service certificates to the decision of the Director, but whatever doubt may have originally existed has been entirely removed by the addition of Section 310.

The judgment should be reversed.

Respectfully submitted.

WILLIAM D. MITCHELL,
Solicitor General.
W. CLIFTON STONE,
Attorney.
WM. WOLFF SMITH,
General Counsel,
United States Veterans' Bureau.
JAMES T. BRADY,
Senior Attorney,
United States Veterans' Bureau.

NOVEMBER, 1928.

APPENDIX

An Act To provide adjusted compensation for veterans of the World War, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.—DEFINITIONS

SECTION 1. This Act may be cited as the "World War Adjusted Compensation Act."

SEC. 2. As used in this Act—

(a) The term "veteran" includes any individual, a member of the military or naval forces of the United States at any time after April 5, 1917, and before November 12, 1918; but does not include (1) any individual at any time during such period or thereafter separated from such forces under other than honorable conditions, (2) any conscientious objector who performed no military duty whatever or refused to wear the uniform, or (3) any alien at any time during such period or thereafter discharged from the military or naval forces on account of his alienage;

(b) The term "oversea service" means service on shore in Europe or Asia, exclusive of China, Japan, and the Philippine Islands; and service afloat, not on receiving ships; including in either case the period from the date of embarkation for such service to the date of disembarkation on return from such service, both dates inclusive;

(c) The term "home service" means all service not oversea service;

(d) The term "adjusted service credit" means the amount of the credit computed under the provisions of Title II; and

(e) The term "person" includes a partnership, corporation, or association, as well as an individual.

TITLE II.—ADJUSTED SERVICE CREDIT

SEC. 201. The amount of adjusted service credit shall be computed by allowing the following sums for each day of active service, in excess of sixty days, in the military or naval forces of the United States after April 5, 1917, and before July 1, 1919, as shown by the service or other record of the veteran: $1.25 for each day of oversea service, and $1 for each day of home service; but the amount of the credit of a veteran who performed no oversea service shall not exceed $500, and the amount of the credit of a veteran who performed any oversea service shall not exceed $625.

SEC. 202. In computing the adjusted service credit no allowance shall be made to—

(a) Any commissioned officer above the grade of captain in the Army or Marine Corps, lieutenant in the Navy, first lieutenant or first lieutenant of engineers in the Coast Guard, or passed assistant surgeon in the Public Health Service, or having the pay and allowances, if not the rank, of any officer superior in rank to any of such grades—in each case for the period of service as such;

(b) Any individual holding a permanent or provisional commission or permanent or acting warrant in any branch of the military or naval forces, or (while holding such commission or warrant)

serving under a temporary commission in a higher grade—in each case for the period of service under such commission or warrant or in such higher grade after the accrual of the right to pay thereunder. This subdivision shall not apply to any noncommissioned officer;

(c) Any civilian officer or employee of any branch of the military or naval forces, contract surgeon, cadet of the United States Military Academy, midshipman, cadet or cadet engineer of the Coast Guard, member of the Reserve Officers' Training Corps, member of the Students' Army Training Corps (except an enlisted man detailed thereto), Philippine Scout, member of the Philippine Guard, member of the Philippine Constabulary, member of the National Guard of Hawaii, member of the insular force of the Navy, member of the Samoan native guard and band of the Navy, or Indian Scout—in each case for the period of service as such;

(d) Any individual entering the military or naval forces after November 11, 1918—for any period after such entrance;

(e) Any commissioned or warrant officer performing home service not with troops and receiving commutation of quarters or of subsistence—for the period of such service;

(f) Any member of the Public Health Service—for any period during which he was not detailed for duty with the Army or the Navy;

(g) Any individual granted a farm or industrial furlough—for the period of such furlough;

(h) Any individual detailed for work on roads or other construction or repair work—for the period during which his pay was equalized to conform

to the compensation paid to civilian employees in the same or like employment, pursuant to the provisions of section 9 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1920, and for other purposes," approved February 28, 1919; or

(i) Any individual who was discharged or otherwise released from the draft—for the period of service terminating with such discharge or release.

SEC. 203. (a) The periods referred to in subdivision (e) of section 202 may be included in the case of any individual if and to the extent that the Secretary of War and the Secretary of the Navy jointly find that such service subjected such individual to exceptional hazard. A full statement of all action under this subdivision shall be included in the reports of the Secretary of War and the Secretary of the Navy required by section 307.

(b) In computing the credit to any veteran under this title effect shall be given to all subdivisions of section 202 which are applicable.

(c) If part of the service is oversea service and part is home service, the home service shall first be used in computing the sixty days' period referred to in section 201.

(d) For the purpose of computing the sixty days' period referred to in section 201, any period of service after April 5, 1917, and before July 1, 1919, in the military or naval forces in any capacity may be included, notwithstanding allowance of credit for such period, or a part thereof, is prohibited under the provisions of section 202, except that the periods referred to in subdivisions (b), (c), and (d) of that section shall not be included.

(e) For the purposes of section 201, in the case of members of the National Guard or of the National Guard Reserve called into service by the proclamation of the President dated July 3, 1917, the time of service between the date of call into the service as specified in such proclamation and August 5, 1917, both dates inclusive, shall be deemed to be active service in the military or naval forces of the United States.

TITLE III.—GENERAL PROVISIONS

BENEFITS GRANTED VETERANS

SEC. 301. Each veteran shall be entitled:

(1) To receive "adjusted service pay" as provided in Title IV, if the amount of his adjusted service credit is $50 or less;

(2) To receive an "adjusted service certificate" as provided in Title V, if the amount of his adjusted service credit is more than $50.

APPLICATION BY VETERAN

SEC. 302. (a) A veteran may receive the benefits to which he is entitled by filing an application claiming the benefits of this Act with the Secretary of War, if he is serving in, or his last service was with, the military forces; or with the Secretary of the Navy, if he is serving in, or his last service was with, the naval forces.

(b) Such application shall be made on or before January 1, 1928, and if not made on or before such date shall be held void.

(c) An application shall be made (1) personally by the veteran, or (2) in case physical or mental incapacity prevents the making of a personal ap-

plication, then by such representative of the veteran and in such manner as the Secretary of War and the Secretary of the Navy shall jointly by regulation prescribe. An application made by a representative other than one authorized by any such regulation shall be held void.

(d) The Secretary of War and the Secretary of the Navy shall jointly make any regulations necessary to the efficient administration of the provisions of this section.

TRANSMITTAL OF APPLICATION

SEC. 303. (a) As soon as practicable after the receipt of a valid application the Secretary of War or the Secretary of the Navy, as the case may be, shall transmit to the Director of the United States Veterans' Bureau (hereinafter in this Act referred to as the "Director") the application and a certificate setting forth—

(1) That the applicant is a veteran;

(2) His name and address;

(3) The date and place of his birth; and

(4) The amount of his adjusted service credit together with the facts of record in his department upon which such above conclusions are based.

(b) Upon receipt of such certificate the Director shall proceed to extend to the veteran the benefits provided for in Title IV or V.

PUBLICITY

SEC. 304. (a) The Director shall, as soon as practicable after the enactment of this Act, prepare and publish a pamphlet or pamphlets containing a digest and explanation of the provisions of this Act; and shall from time to time thereafter prepare

and publish such additional or supplementary information as may be found necessary.

(b) The publications provided for in subdivision (a) shall be distributed in such manner as the Director may determine to be most effective to inform veterans and their dependents of their rights under this Act.

[illegible]

SEC. 305. Immediately upon the enactment of this Act the Secretary of War and the Secretary of the Navy shall ascertain the individuals who are veterans as defined in section 2, and, as to each veteran, the number of days of overseas service and of home service, as defined in section 2, for which he is entitled to receive adjusted service credit, and their findings shall not be subject to review by the General Accounting Office, and payments made by disbursing officers of the United States Veterans' Bureau made in accordance with such findings shall be passed to their credit.

[illegible]

SEC. 306. Any officer charged with any function under this Act shall make such regulations, not inconsistent with this Act, as may be necessary to the efficient administration of such function.

[illegible]

SEC. 307. Any officer charged with the administration of any part of this Act shall make a full report to Congress on the first Monday of December of each year as to his administration thereof.

EXEMPTION FROM ATTACHMENT AND LEVY

SEC. 205. No sum payable under this Act to a veteran or his dependents, or to his estate, or to any beneficiary named under Title V, no adjusted service certificate, and no payments of any loan made on such certificate, shall be subject to attachment, levy, or seizure under any legal or equitable process, or to National or State taxation.

PENALTIES

SEC. 206. Any person who charges or collects, or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting in any manner a veteran or his dependents in obtaining any of the benefits, privileges, or loans to which he is entitled under the provisions of this Act shall, upon conviction thereof, be subject to a fine of not more than $500, or imprisonment for not more than one year, or both.

TITLE IV—ADJUSTED SERVICE PAY

SEC. 401. There shall be paid to each veteran by the Director (as soon as practicable after receipt of an application in accordance with the provisions of section 402, but not before March 1, 1945), in addition to any other amounts due such veteran in pursuance of law, the amount of his adjusted service credit, if, and only if, such credit is not more than $50.

SEC. 402. No right to adjusted service pay under the provisions of this title shall be assignable or pass or accrue to any living person. Any assignment or loan made in violation of the provisions of this sec-

tion shall be held void. Except as provided in Title VI, the Director shall not pay the amount of adjusted service pay to any person other than the veteran or such representative of the veteran as he shall by regulation prescribe.

TITLE V.—ADJUSTED SERVICE CERTIFICATES

SEC. 501. The Director, upon certification from the Secretary of War or the Secretary of the Navy, as provided in section 303, is hereby directed to issue without cost to the veteran designated therein a non-participating adjusted service certificate (hereinafter in this title referred to as a "certificate") of a face value equal to the amount in dollars of 20-year endowment insurance that the amount of his adjusted service credit increased by 25 per centum would purchase, at his age on his birthday nearest the date of the certificate, if applied as a net single premium, calculated in accordance with accepted actuarial principles and based upon the American Experience Table of Mortality and interest at 4 per centum per annum, compounded annually. The certificate shall be dated, and all rights conferred under the provisions of this title shall take effect, as of the 1st day of the month in which the application is filed, but in no case before January 1, 1925. The veteran shall name the beneficiary of the certificate and may from time to time, with the approval of the Director, change such beneficiary. The amount of the face value of the certificate (except as provided in subdivisions (c), (d), (e), and (f) of section 502) shall be payable out of the fund created by section 505 (1) to the veteran

twenty years after the date of the certificate, or (2) upon the death of the veteran prior to the expiration of such twenty-year period, to the beneficiary named; except that if such beneficiary dies before the veteran and no new beneficiary is named, or if the beneficiary in the first instance has not yet been named, the amount of the face value of the certificate shall be paid to the estate of the veteran. If the veteran dies after making application under section 302, but before January 1, 1925, then the amount of the face value of the certificate shall be paid in the same manner as if his death had occurred after January 1, 1925.

LOAN PRIVILEGES

SEC. 502. (a) A loan may be made to a veteran upon his adjusted service certificate only in accordance with the provisions of this section.

(b) Any national bank, or any bank or trust company incorporated under the laws of any State, Territory, possession, or the District of Columbia (hereinafter in this section called "bank"), is authorized, after the expiration of two years after the date of the certificate, to loan to any veteran upon his promissory note secured by his adjusted service certificate (with or without the consent of the beneficiary thereof) any amount not in excess of the loan basis (as defined in subdivision (g) of this section) of the certificate. The rate of interest charged upon the loan by the bank shall not exceed, by more than 2 per centum per annum, the rate charged at the date of the loan for the discount of 90-day commercial paper under section 13 of the Federal Reserve Act by the Federal reserve bank

for the Federal reserve district in which the bank is located. Any bank holding a note for a loan under this section secured by a certificate (whether the bank originally making the loan or a bank to which the note and certificate have been transferred) may sell the note to, or discount or rediscount it with, any bank authorized to make a loan to a veteran under this section and transfer the certificate to such bank. Upon the indorsement of any bank, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations to be prescribed by the Federal Reserve Board, any such note secured by a certificate and held by a bank shall be eligible for discount or rediscount by the Federal reserve bank for the Federal reserve district in which the bank is located. Such note shall be eligible for discount or rediscount whether or not the bank offering the note for discount or rediscount is a member of the Federal Reserve System and whether or not it acquired the note in the first instance from the veteran or acquired it by transfer upon the indorsement of any other bank. Such note shall not be eligible for discount or rediscount unless it has at the time of discount or rediscount a maturity not in excess of nine months exclusive of days of grace. The rate of interest charged by the Federal reserve bank shall be the same as that charged by it for the discount or rediscount of 90-day notes drawn for commercial purposes. The Federal Reserve Board is authorized to permit, or on the affirmative vote of at least five members of the Federal Reserve Board to require, a Federal reserve bank to rediscount, for any other Federal reserve bank, notes secured by a certificate. The rate of

interest for such rediscounts shall be fixed by the Federal Reserve Board. In case the note is sold, discounted, or rediscounted the bank making the transfer shall promptly notify the veteran by mail at his last known post office address.

(c) If the veteran does not pay the principal and interest of the loan upon its maturity, the bank holding the note and certificate may, at any time after maturity of the loan but not before the expiration of six months after the loan was made, present them to the Director. The Director may, in his discretion, accept the certificate and note, cancel the note (but not the certificate), and pay the bank, in full satisfaction of its claim, the amount of the unpaid principal due it, and the unpaid interest accrued, at the rate fixed in the note, up to the date of the check issued to the bank. The Director shall restore to the veteran, at any time prior to its maturity, any certificate so accepted, upon receipt from him of an amount equal to the sum of (1) the amount paid by the United States to the bank in cancellation of his note, plus (2) interest on such amount from the time of such payment to the date of such receipt, at 6 per centum per annum, compounded annually.

(d) If the veteran fails to redeem his certificate from the Director before its maturity, or before the death of the veteran, the Director shall deduct from the face value of the certificate (as determined in section 501) an amount equal to the sum of (1) the amount paid by the United States to the bank on account of the note of the veteran, plus (2) interest on such amount from the time of such payment to the date of maturity of the certificate or of the death of the veteran, at the rate of 6 per centum per

annum, compounded annually, and shall pay the remainder in accordance with the provisions of section 501.

(e) If the veteran dies before the maturity of the loan, the amount of the unpaid principal and the unpaid interest accrued up to the date of his death shall be immediately due and payable. In such case, or if the veteran dies on the day the loan matures or within six months thereafter, the bank holding the note and certificate shall, upon notice of the death, present them to the Director, who shall thereupon cancel the note (but not the certificate) and pay to the bank, in full satisfaction of its claim, the amount of the unpaid principal and unpaid interest, at the rate fixed in the note, accrued up to the date of the check issued to the bank; except that if, prior to the payment, the bank is notified of the death by the Director and fails to present the certificate and note to the Director within fifteen days after the notice, such interest shall be only up to the fifteenth day after such notice. The Director shall deduct the amount so paid from the face value (as determined under section 501) of the certificate and pay the remainder in accordance with the provisions of section 501.

(f) If the veteran has not died before the maturity of the certificate, and has failed to pay his note to the bank or the Federal reserve bank holding the note and certificate, such bank shall, at the maturity of the certificate, present the note and certificate to the Director, who shall thereupon cancel the note (but not the certificate) and pay to the bank, in full satisfaction of its claim, the amount of the unpaid principal and unpaid interest, at the rate fixed in the note, accrued up to the date of the

maturity of the certificate. The Director shall deduct the amount so paid from the face value (as determined in section 501) of the certificate and pay the remainder in accordance with the provisions of section 501.

(g) The loan basis of any certificate at any time shall, for the purpose of this section, be an amount which is not in excess of 90 per centum of the reserve value of the certificate on the last day of the current certificate year. The reserve value of a certificate on the last day of any certificate year shall be the full reserve required on such certificate, based on an annual level net premium for twenty years and calculated in accordance with the American Experience Table of Mortality and interest at 4 per centum per annum, compounded annually.

(h) No payment upon any note shall be made under this section by the Director to any bank, unless the note when presented to him is accompanied by an affidavit made by an officer of the bank which made the loan, before a notary public or other officer designated for the purpose by regulation of the Director, and stating that such bank has not charged or collected, or attempted to charge or collect, directly or indirectly, any fee or other compensation (except interest as authorized by this section) in respect of any loan made under this section by the bank to a veteran. Any bank which, or director, officer, or employee thereof who, does so charge, collect, or attempt to charge or collect any such fee or compensation, shall be liable to the veteran for a penalty of $100, to be recovered in a civil suit brought by the veteran. The Director shall upon request of any bank or veteran furnish a blank form for such affidavit.

SEC. 503. No certificate issued or right conferred under the provisions of this title shall, except as provided in section 502, be negotiable or assignable or serve as security for a loan. Any negotiation, assignment, or loan made in violation of any provision of this section shall be held void.

SEC. 504. Any certificate issued under the provisions of this title shall have printed upon its face the conditions and terms upon which it is issued and to which it is subject, including loan values under section 502.

ADJUSTED SERVICE CERTIFICATE FUND

SEC. 505. There is hereby created a fund in the Treasury of the United States to be known as "The Adjusted Service Certificate Fund," hereinafter in this title called "fund." There is hereby authorized to be appropriated for each calendar year (beginning with the calendar year 1925 and ending with the calendar year 1946) an amount sufficient as an annual premium to provide for the payment of the face value of each adjusted service certificate in twenty years from its date or on the prior death of the veteran, such amount to be determined in accordance with accepted actuarial principles and based upon the American Experience Table of Mortality and interest at 4 per centum per annum, compounded annually. The amounts so appropriated shall be set aside in the fund on the first day of the calendar year for which appropriated. The appropriation for the calendar year 1925 shall not be in excess of $100,000,000.

SEC. 506. The Secretary of the Treasury is authorized to invest and reinvest the moneys in the fund, or any part thereof, in interest-bearing obli-

gations of the United States and to sell such obligations of the United States for the purposes of the fund. The interest on and the proceeds from the sale of any such obligations shall become a part of the fund.

SEC. 507. All amounts in the fund shall be available for payment, by the Director, of adjusted service certificates upon their maturity or the prior death of the veteran, and for payments under section 502 to banks on account of notes of veterans.

TITLE VI.—PAYMENTS TO VETERAN'S DEPENDENTS

ORDER OF PREFERENCE

SEC. 601. (a) If the veteran has died before making application under section 302, or, if entitled to receive adjusted service pay, has died after making application but before he has received payment under Title IV, then the amount of his adjusted service credit shall (as soon as practicable after receipt of an application in accordance with the provisions of section 604, but not before March 1, 1925) be paid to his dependents, in the following order of preference:

(1) To the widow or widower if unmarried;

(2) If no unmarried widow or widower, then to the children, share and share alike;

(3) If no unmarried widow or widower, or children, then to the mother;

(4) If no unmarried widow or widower, children, or mother, then to the father.

(b) For the purposes of this section payments made under paragraph (2) of subdivision (g) of section 301 of the War Risk Insurance Act shall not be considered payments made by the United States on account of the death of the veteran.

DEPENDENCY

SEC. 602. (a) No payment shall be made to any individual under this title unless at the time of the death of the veteran such individual was dependent.

(b) For the purposes of this section:

(1) A child of the veteran shall be presumed to have been dependent upon him at the time of his death if at such time such child was under 18 years of age;

(2) The widow or widower shall be presumed to have been dependent upon the veteran upon showing by them, respectively, the marital cohabitation; the father and mother, respectively, shall submit under oath a statement of the dependency, to be filed with the application.

PAYMENT IN INSTALLMENTS

SEC. 603. The payments authorized by section 601 shall be made in ten equal quarterly installments, unless the total amount of the payment is less than $50, in which case it shall be paid on the first installment date. No payments under the provisions of this title shall be made to the heirs or legal representatives of any dependents entitled thereto who die before receiving all the installment payments, but the remainder of such payments shall be made to the dependent or dependents in the next order of preference under section 601. All payments under this title shall be made by the Director.

APPLICATION BY DEPENDENT

SEC. 604. (a) A dependent may receive the benefits to which he is entitled under this title by filing an application therefor with the Secretary of War,

if the last service of the veteran was with the military forces, or with the Secretary of the Navy, if his last service was with the naval forces.

(b) Applications for such benefits, whether vested or contingent, shall be made by the dependents of the veteran on or before January 1, 1928; except that in case of the death of the veteran during the six months immediately preceding such date the application shall be made at any time within six months after the death of the veteran. Payments under this title shall be made only to dependents who have made application in accordance with the provisions of this subdivision.

(c) An application shall be made (1) personally by the dependent, or (2) in case physical or mental incapacity prevents the making of a personal application, then by such representative of the dependent and in such manner as the Secretary of War and the Secretary of the Navy shall jointly by regulation prescribe. An application made by a representative other than one authorized by any such regulation shall be held void.

(d) The Secretary of War and the Secretary of the Navy shall jointly make any regulations necessary to the efficient administration of the provisions of this section.

TRANSMITTAL OF APPLICATION

SEC. 605. (a) As soon as practicable after the receipt of a valid application the Secretary of War or the Secretary of the Navy, as the case may be, shall transmit to the Director the application and a certificate setting forth—

(1) The name and address of the applicant;

(2) That the individual upon whom the applicant bases his claim to payment was a veteran;

(3) The name of such veteran and the date and place of his birth; and

(4) The amount of the adjusted service credit of the veteran, together with the facts of record in the department upon which such above conclusions are based.

(b) Upon receipt of such certificate the Director shall proceed to extend to the applicant the benefits provided in this title if the Director finds that the applicant is the dependent entitled thereto.

ASSIGNMENTS

SEC. 606. No right to payment under the provisions of this title shall be assignable or serve as security for any loan. Any assignment or loan made in violation of the provisions of this section shall be held void. The Director shall not make any payments under this title to any person other than the dependent or such representative of the dependent as the Director shall by regulation prescribe.

DEFINITIONS

SEC. 607. As used in this Act—

(a) The term "dependent" means a widow, widower, child, father, or mother;

(b) The term "child" includes (1) a legitimate child; (2) a child legally adopted; (3) a stepchild, if a member of the veteran's household; (4) an illegitimate child, but, as to the father only, if acknowledged in writing signed by him, or if he has been judicially ordered or decreed to contribute to

such child's support, or has been judicially decreed to be the putative father of such child; and

(c) The terms "father" and "mother" include stepfathers and stepmothers, fathers and mothers through adoption, and persons who have, for a period of not less than one year, stood in loco parentis to the veteran at any time prior to the beginning of his service.

TITLE VII.—MISCELLANEOUS PROVISIONS

SEC. 701. The officers having charge of the administration of any of the provisions of this Act are authorized to appoint such officers, employees, and agents in the District of Columbia and elsewhere, and to make such expenditures for rent, furniture, office equipment, printing, binding, telegrams, telephone, law books, books of reference, stationery, motor-propelled vehicles or trucks used for official purposes, traveling expenses and per diem in lieu of subsistence at not exceeding $4 for officers, agents, and other employees, for the purchase of reports and materials for publications, and for other contingent and miscellaneous expenses, as may be necessary efficiently to execute the purposes of this Act and as may be provided for by the Congress from time to time. All such appointments shall be made subject to the civil service laws. In all appointments under this section preference shall, so far as practicable, be given to veterans.

For the administration of the provisions of this Act, the President may except from the operation of section 4c of the Act entitled "An Act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended, or of any Act

amendatory thereof or supplemental thereto, not more than seven officers of the Army.

SEC. 702. Whoever knowingly makes any false or fraudulent statement of a material fact in any application, certificate, or document made under the provisions of Title III, IV, V, or VI, or of any regulation made under any such title, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than five years, or both.

SEC. 703. The Secretary of War, the Secretary of the Navy, and the Director shall severally submit in the manner provided by law estimates of the amounts necessary to be expended in carrying out such provisions of this Act as each is charged with administering, and there is hereby authorized to be appropriated amounts sufficient to defray such expenditures. The Director shall also submit estimates for appropriations for the fund created by section 505.

F. H. GILLETT,
Speaker of the House of Representatives.
ALBERT B. CUMMINS,
President pro tempore of the Senate.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
May 17, 1924.

The House having proceeded, in pursuance of the Constitution, to reconsider the bill (H. R. 7959) entitled "An Act to provide adjusted compensation for the veterans of the World War, and for other purposes," returned to the House by the President of the United States, with his objections thereto, with the message of the President returning the bill; and

Resolved, That the bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

WM. TYLER PAGE,
Clerk.

I certify that this Act originated in the House of Representatives.

WM. TYLER PAGE,
Clerk.

IN THE SENATE OF THE UNITED STATES,
May 19, 1924.

The Senate having proceeded to reconsider the bill (H. R. 7959) entitled "An Act to provide adjusted compensation for the veterans of the World War, and for other purposes," returned by the President of the United States to the House of Representatives, in which it originated, with his objections, and passed by the House on a reconsideration of the same, it was

RESOLVED, That the bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

GEORGE A. SANDERSON,
Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 of the World War Adjusted Compensation Act is amended, to take effect as of May 19, 1924, to read as follows:

"SEC. 302. (a) A veteran may receive the benefits to which he is entitled by application claiming the benefits of this Act, filed with the Secretary of War, if he is serving in, or his last service was with, the military forces; or filed with the Secretary of the Navy, if he is serving in, or his last service was with, the naval forces.

"(b) Such application shall be made and filed on or before January 1, 1928, (1) personally by the veteran, or (2) in case physical or mental incapacity prevents the making or filing of a personal application, then by such representative of the veteran and in such manner as may be by regulations prescribed. An application made by a person other than the representative authorized by any such regulation, or not filed on or before January 1, 1928, shall be held void. If the veteran dies after the application is made and before it is filed it may be filed by any person: *Provided, however,* That if the veteran died between May 19, 1924, and July 1, 1924, without making the application, leaving a widow surviving him, the application may be made by the widow and shall be valid with the same force and effect in every respect as if the application had been made by the veteran.

"(c) If the veteran dies after the application is made, it shall be valid if the Secretary of War or the Secretary of the Navy, as the case may be, finds that it bears the bona fide signature of the applicant, discloses an intention to claim the benefits of this Act on behalf of the veteran, and is filed on or before January 1, 1928, whether or not the veteran is alive at the time it is filed. If the veteran dies and payments are made to his dependents under Title VI, and thereafter a valid application is filed under this section, then if the adjusted service credit of the veteran is more than $50, payment shall be made in accordance with Title V, less any amounts already paid under Title VI.

"(d) The Secretary of War and the Secretary of the Navy shall jointly make any regulations necessary to the efficient administration of the provisions of this section."

SEC. 2. Section 303 of such Act is amended to read as follows:

"SEC. 303 (a) As soon as practicable after the receipt of a valid application the Secretary of War or the Secretary of the Navy, as the case may be, shall transmit to the Director of the United States Veterans' Bureau (hereinafter in this Act referred to as the Director) the application and a certificate setting forth—

"(1) That a valid application has been received;

"(2) That the applicant is a veteran;

"(3) His name and address;

"(4) The date and place of his birth; and

"(5) The amount of his adjusted service credit.

"(b) Upon receipt of such certificate the Director shall proceed to extend to the veteran the benefits provided for in Title IV or V."

SEC. 3. (a) Section 308 of such Act is amended, to take effect as of May 19, 1924, to read as follows:

"SEC. 308. No sum payable under this Act to a veteran or his dependents, or to his estate, or to any beneficiary named under Title V, no adjusted service certificate, and no proceeds of any loan made on such certificate shall be subject to attachment, levy, or seizure under any legal or equitable process, or to National or State taxation, and no deductions on account of any indebtedness of the veteran to the United States shall be made from the adjusted service credit or from any amounts due under this Act."

(b) As used in this section the term "original credit" means the amount of the adjusted service credit computed under the World War Adjusted Compensation Act before its amendment by this Act, less amounts deducted on account of any indebtedness of the veteran to the United States; and the term "new credit" means the amount of the adjusted service credit computed under such Act as amended by this Act, without such deduction.

(c) If the veteran is alive at the time of the enactment of this Act and the benefits of the World War Adjusted Compensation Act have been extended to him, then any excess of the new credit over the original credit shall be considered as if it were a separate adjusted service credit and the benefits of such Act shall be extended in respect thereof according to the terms of such Act as amended by this Act.

(d) If the veteran has died before the enactment of this Act and before making application under section 302 of the World War Adjusted Compensation Act, then if any part of the original credit has

been paid to the dependents of the veteran, any remaining part shall be paid as provided in Title VI of such Act as amended by this Act, and any excess of the new credit over the original credit shall be paid in cash in a lump sum to the dependents as provided in Title VI of such Act as amended by this Act.

(e) If the veteran has died before the enactment of this Act after having made application, then—

(1) If the original credit was not over $50 and the new credit is not over $50 payment shall be made as provided in subdivision (d).

(2) If the original credit was not over $50 and the new credit is over $50 then the face value of an adjusted service certificate computed on the basis of the new credit shall be paid to the beneficiary named, or, if the beneficiary died before the veteran and no new beneficiary was named or if no beneficiary was named in the application, then to the estate of the veteran. If in any such case any payments have already been made to the veteran or his dependents, the amount of such payments shall be deducted from the face value of the adjusted service certificate.

(3) If the original credit was over $50 then the face value of an adjusted service certificate computed on the basis of the excess of the new credit over the original credit shall be paid as provided in paragraph (2) of this subdivision.

(f) Wherever under this Act or the World War Adjusted Compensation Act it is provided that payment shall be made by the Director of the United States Veterans' Bureau to the estate of any decedent, such payment, if not over $500, may, under regulations prescribed by the Director, be

made to the persons found by him to be entitled thereto, without the necessity of compliance with the requirements of law in respect of the administration of such estate.

SEC. 4. (a) Any person who charges or collects, or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting in any manner a veteran, his dependents or other beneficiary under this Act, in obtaining any of the benefits, privileges or loans to which he is entitled under the provisions of this Act, shall, upon conviction thereof, be subject to a fine of not more than $500, or imprisonment for not more than one year, or both.

(b) Such Act is amended by adding after section 309 a new section to read as follows:

"FINALITY OF DECISIONS

"SEC. 310. The decisions of the Secretary of War, the Secretary of the Navy, and the Director on all matters within their respective jurisdictions under the provisions of this Act (except the duties vested in them by Title VII) shall be final and conclusive."

SEC. 5. Section 503 of such Act is amended to read as follows:

"SEC. 503. No certificate issued or right conferred under the provisions of this title shall, except as provided in section 502, be negotiable or assignable or serve as security for a loan. Any negotiation, assignment, or loan made in violation of any provision of this section shall be held void. If any person is named as beneficiary by the veteran as a consideration for the making of a loan to the veteran by such person or any other person, such

naming shall be void. Any person who accepts an assignment of a certificate or receives a certificate as security for a loan contrary to the provisions of this title, or who makes a loan to a veteran in consideration of the naming by the veteran of such person or any other person as beneficiary, shall be guilty of a misdemeanor and shall upon conviction thereof be fined not more than $500 or imprisoned not more than one year, or both."

SEC. 6. Section 601 of such Act is amended to read as follows:

"SEC. 601. If the veteran has died before making application under section 302, or, if entitled to receive adjusted service pay, has died after making application but before he has received payment under Title IV, then the amount of his adjusted service credit shall (as soon as practicable after receipt of an application in accordance with the provisions of section 604, but not before March 1, 1925) be paid to his dependents, in the following order of preference:

"(1) To the widow;

"(2) If no widow entitled to payment, then to the children, share and share alike;

"(3) If no widow or children entitled to payment, then to the mother;

"(4) If no widow, children, or mother, entitled to payment, then to the father."

SEC. 7. Section 602 of such Act is amended to read as follows:

"SEC. 602. (a) No payment under section 601 shall be made to a widow if she has remarried before making application, or if at the time of the death of the veteran was living apart from him by

reason of her own willful act; nor unless dependent at the time of the death of the veteran or at any time thereafter and before January 2, 1928. The widow shall be presumed to have been dependent at the time of the death of the veteran upon a showing of the marital cohabitation.

"(b) Payment under section 601 shall be made to a child if (1) under 18 years of age at the time of the death of the veteran, or (2) at any time thereafter and before January 2, 1928, incapable of self-support by reason of mental or physical defect.

"(c) No payment under section 601 shall be made to a mother or father unless dependent at the time of the death of the veteran or at any time thereafter and before January 2, 1928. If at the time of the death of the veteran or at any time thereafter and before January 2, 1928, the mother is unmarried or over 60 years of age, or the father is over 60 years of age, such mother or father, respectively, shall be presumed to be dependent."

SEC. 8. Section 605 of such Act is amended to read as follows:

"SEC. 605. (a) As soon as practicable after the receipt of a valid application the Secretary of War or the Secretary of the Navy, as the case may be, shall transmit to the Director the application and a certificate setting forth—

"(1) That a valid application has been received;

"(2) The name and address of the applicant;

"(3) That the individual upon whom the applicant bases his claim to payment was a veteran;

"(4) The name of such veteran and the date and place of his birth; and

"(5) The amount of the adjusted service credit of the veteran.

"(b) Upon receipt of such certificate the Director shall proceed to extend to the applicant the benefits provided in this title if the Director finds that the applicant is the dependent entitled thereto."

SEC. 9. Section 607 of such Act is amended by striking out "and" at the end of subdivision (b), by striking out the period at the end of subdivision (c) and inserting a semicolon and the word "and", and by adding after subdivision (c) a new subdivision to read as follows:

"(d) The term 'widow' includes widower."

SEC. 10. Title VI of such Act is amended by adding at the end thereof a new section to read as follows:

"SEC. 608. If the veteran died while in the service and before July 1, 1919, and if an adjusted service credit has been or is, after this section takes effect, certified to the Director, then the sum of $60 shall be paid in a lump sum to the dependents of such veteran in the same manner as is provided in sections 601 and 602 of this Act."

SEC. 11. This Act shall not invalidate any payments made or applications received under the World War Adjusted Compensation Act before the enactment of this Act. Payments under awards heretofore or hereafter made shall be made to the dependent entitled thereto regardless of change in status, unless another dependent establishes to the satisfaction of the Director a priority of preference under such Act as amended by this Act. Upon the establishment of such preference the remaining installments shall be paid to such dependent, but in no case shall the total payments under Title VI of such Act (except section 608) exceed the adjusted service credit of the veteran.

SEC. 12. Title VII of such Act is amended by adding at the end thereof a new section to read as follows:

"SEC. 704. Whoever falsely makes, forges, counterfeits, or alters, or causes or procures to be made, forged, counterfeited, or altered, or willingly aids or assists in falsely making, forging, counterfeiting, or altering an adjusted service certificate issued under authority of this Act, or whoever passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, any such false, forged, counterfeited, or altered certificate, with intent to defraud the United States or any person, or whoever has in possession any such falsely made, forged, counterfeited, or altered certificate, with intent to unlawfully use the same, shall be punished by a fine of not more than $5,000 and imprisonment not more than fifteen years. The Secretary of the Treasury is hereby authorized to direct and use the Secret Service Division of the Treasury Department to detect, arrest, and deliver into the custody of the United States marshal having jurisdiction any person or persons violating any of the provisions of this section."

SEC. 13. Title VII of such Act is further amended by adding at the end thereof a new section to take effect as of May 19, 1924, and to read as follows:

"SEC. 705. Whenever it appears to the Director, by evidence clear and satisfactory to him, that any adjusted service certificate has, without bad faith upon the part of the person entitled to payment theron, been lost, destroyed, wholly or in part, or so defaced as to impair its value to the rightful holder, and such adjusted service certificate is identified by number and description, the Director

shall under such regulations and with such restrictions as to time and retention for security or otherwise as he may prescribe, issue a duplicate thereof of like value in all respects to the original certificate and so marked as to show the original number of the certificate lost, destroyed, or defaced, and the date thereof. The lawful holder of such certificate who makes application for a duplicate shall surrender the original, if existing, or so much thereof as may remain and shall file in the United States Veterans' Bureau a bond in a penal sum of the face value of such lost, destroyed, or defaced certificate, with two good and sufficient securities, residents of the United States, to be approved by the Director, with condition to indemnify and save harmless the United States from any claim upon such lost, destroyed, or defaced certificate."

Approved, July 3, 1926.